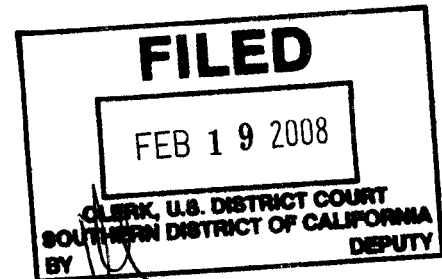


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 UNITED STATES OF AMERICA



UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

08 CR409-DMS

UNITED STATES OF AMERICA,

Magistrate Case No. 08MJ0290

Plaintiff,

**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

v.

RODRIGO JIMENEZ-OROZCO,

Defendant.

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Caroline P. Han, Assistant United States Attorney, and defendant RODRIGO JIMENEZ-OROZCO, by and through and with the advice and consent of defense counsel, Joseph McMullen, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(1)(A)(i) and (v)(II).

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CPH:drh

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before February 29, 2008.

6 4. The material witnesses, Nestor Manzano-Canelo, Rigoberto Ruiz-Perez, and Federico
7 Guzman-Soriano, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 January 31, 2008;

11 c. Were found in rural terrain approximately 1/2 mile north of the international
12 border with Mexico and 2 miles east of Otay Mesa Port of Entry and were being guided by
13 defendant, and defendant knew of the fact that they were aliens with no lawful right to enter or
14 remain in the United States;

15 d. Were paying between and unknown amount of money to \$2,500 to others to
16 be brought into the United States illegally and/or transported illegally to their destination therein;
17 and,

18 e. May be released and remanded immediately to the Department of Homeland
19 Security for return to their country of origin.

20 5. After the material witnesses are ordered released by the Court pursuant to this
21 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
22 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
23 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

24 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
25 substantive evidence;

26 b. The United States may elicit hearsay testimony from arresting agents
27 regarding any statements made by the material witness(es) provided in discovery, and such testimony

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Rodrigo Jimenez-Orozco

1 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
 2 of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 4 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
 5 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
 6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has
 8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
 9 further that defendant has discussed the terms of this stipulation and joint motion with defense
 10 counsel and fully understands its meaning and effect.

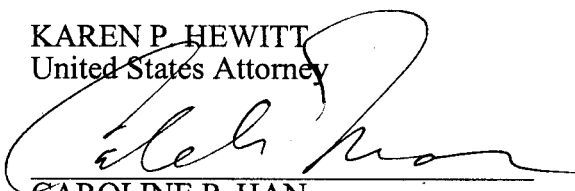
11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 12 immediate release and remand of the above-named material witness(es) to the Department of
 13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

15 Respectfully submitted,

16 KAREN P. HEWITT
 17 United States Attorney

18 Dated: 2/19/08.

19 
 20 CAROLINE P. HAN
 21 Assistant United States Attorney

22 Dated: 2-18-2008.

23 
 24 JOSEPH MCMULLEN
 25 Defense Counsel for Rodrigo Jimenez-Orozco

26 Dated: 2-18-2008.

27 
 28 RODRIGO JIMENEZ-OROZCO
 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 2/19/2008.


United States Magistrate Judge